

FREDERICK COUNTY PLANNING COMMISSION
Wednesday, May 17, 2006
Minutes

Commission Members Present: Alan Duke, Chairman
 Joseph Brown III, Secretary
 Robert White, Vice Chairman
 Fern Hines
 J. Denham Crum
 Michael Cady, BOCC Liaison

Commission Members Absent: Joan McIntyre

Planning Staff Present: Steve Kaii-Ziegler, Director of Planning
 Eric Soter, Assistant Director
 Carole Larsen, Principal Planner
 Timothy Blaser, Land Preservation Administrator
 Anne Bradley, Agricultural Preservation Planner
 Denis Superczynski, Principal Planner
 Caryl Wenger, Recording Secretary

The Afternoon Session began at 2:00 p.m.

Mr. Duke opened the meeting and introduced the Planning Commission members in attendance. He then announced that the APFO Text Amendment Public Hearing, erroneously published in the Frederick News-Post as beginning at 2:00 p.m., would be held that evening at 7:00 p.m.

Mr. Cady was initially not in attendance.

MINUTES:

Mr. White made a motion to approve the minutes for April 19, 2006. Mr. Brown seconded the motion. Motion carried unanimously.

Motion: White/2nd Brown
Vote: 5 – 0 – 2 – 0
For: Duke, Brown, White, Crum, Hines
Against: None
Absent: Cady, McIntyre
Abstain: None

PLANNING COMMISSION COMMENTS

None.

PLEASE NOTE BOTH AUDIO AND VIDEO TAPES ARE AVAILABLE UPON REQUEST.

AGENCY COMMENTS

Mr. Soter advised that the issue of parking, and how it is addressed in the zoning ordinance, came up during the last meeting with the Division of Permitting and Development Review. He stated that he had spoken with Mr. Mark Depo, and rather than scheduling a workshop as initially requested, they would be putting the matter on an upcoming July agenda as an informational item. A further workshop would then be scheduled if needed.

Mr. Gugel then introduced Ms. Shawna Lemonds, the new Staff member to the Division of Planning.

Regarding the Walkersville Region Plan, he reminded everyone that the Walkersville Region Plan Public Hearing would be held May 24, 2006, at the Walkersville Town Hall in Walkersville, at 7:00 p.m. He stated that Staff would be there 6:00 p.m. to answer questions. Also, he said, the follow-up workshop schedule would include a Wednesday workshop on June 21, 2006, and he asked that June 28, 2006, be kept open for an additional workshop, if necessary. After the June Workshop, the Planning Commission would then be voting on the Updated Plan at the July meeting.

After the Planning Commission makes its recommendation, Mr. Gugel said, a joint workshop would be scheduled, with the Planning Commission and the Board of County Commissioners at the beginning of the Board's process, hopefully in early August.

MALPF DISTRICT APPLICATIONS

Mr. Blaser and Ms. Bradley presented the Staff Reports for the seven MALPF District Applications.

AD-06-05 - James & Bonnie Miller

Ninety-six (96) acres located north of Deerfield-Foxville Road, 300 feet west of Sabillasville Road and east of Buck Lantz Road.

Applicant

The Applicant was not present.

Public Comment

There was no public comment.

Decision

Mr. Brown made a motion to recommend consistency with the Comprehensive Plan. Ms. Hines seconded the motion. Motion carried.

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Motion: Brown/2nd Hines
Vote: 5 – 0 – 1 – 1
For: Duke, Brown, Hines, White, Crum
Against: None
Absent: McIntyre
Abstain: Cady

AD-06-06 - James & Bonita Smith

Sixty-six (66) acres located on the west side of Eylers Valley Flint Road, 1,500 east of Maryland Route 550.

Applicant

The Applicant was not present.

Public Comment

There was no public comment.

Decision

After some discussion, Ms. Hines made a motion to recommend consistency with the Comprehensive Plan. Mr. Crum seconded the motion. Motion carried.

Motion: Hines/2nd Crum
Vote: 3 – 0 – 1 – 3
For: Duke, Hines, Crum
Against: None
Absent: McIntyre
Abstain: Brown, White, Cady

This application was approved by a majority of those voting, and not a by majority vote of those present, which is permitted within the Planning Commission Rules of Procedure.

Mr. Cady left the meeting at this point.

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AD-06-07 - Barbara Wyatt & Michael Sack

Twenty-three (23) acres north of Coppermine Road, 900 feet south of Molasses Road, 1,800 feet east of Green Valley Road.

Applicant

Ms. Wyatt was present and stated that this property has been in her family for approximately forty-five years. Most of the original farm was sold to the adjoining landowner, which accounts for the odd shape and reduced size of the current property.

Public Comment

There was no public comment.

Decision

Mr. Crum made a motion to recommend consistency with the Comprehensive Plan. Ms. Hines seconded the motion. Motion carried.

Motion: Crum/2nd Hines
Vote: 5 – 0 – 2 – 0
For: Duke, Brown, Hines, White, Crum
Against: None
Absent: McIntyre, Cady
Abstain: None

AD-06-08- Carol Swandby

Eighty-eight (88) acres located west of New London Road, 450 feet north of Crickenberger Road.

Applicant

The Applicant was not present.

Public Comment

There was no public comment.

Decision

Mr. Brown made a motion to recommend consistency with the Comprehensive Plan. Mr. White seconded the motion. Motion carried.

Motion: Brown/2nd White
Vote: 4 – 1 – 2 – 0
For: Duke, Brown, Hines, White
Against: Crum
Absent: McIntyre, Cady
Abstain: None

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AD-06-09- Darrel & Christina Drenner

Seventy-five (75) acres located both east and west of Dollyhyde Road, 3,500 feet south of Maryland Route 26.

Applicant

The Applicant was not present.

Public Comment

There was no public comment.

Decision

Mr. Crum made a motion to recommend consistency with the Comprehensive Plan. Mr. Brown seconded the motion. Motion carried.

Motion: Crum/2nd Brown
Vote: 5 – 0 – 2 – 0
For: Duke, Brown, Crum, Hines, White
Against: None
Absent: McIntyre, Cady
Abstain: None

AD-06-10 - Henry & Beverly Barton

One Hundred, Eighty-five (185) acres located on the east and south sides of Whiskey Springs Road, north of Coppermine Road.

Applicant

The Applicants were present, but declined to speak.

Public Comment

There was no public comment.

Decision

Mr. Brown made a motion to recommend consistency with the Comprehensive Plan. Mr. Crum seconded the motion. Motion carried.

Motion: Brown/2nd Crum
Vote: 5 – 0 – 2 – 0
For: Duke, Brown, Crum, Hines, White
Against: None
Absent: McIntyre, Cady
Abstain: None

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AD-06-10 - Henry & Beverly Barton

Sixty-two and one-half (62.5) acres located on the east and south sides of Whiskey Springs Road, north of Coppermine Road.

Applicant

The Applicants were present, but declined to speak.

Public Comment

There was no public comment.

Decision

Ms. Hines made a motion to recommend consistency with the Comprehensive Plan. Mr. Crum seconded the motion. Motion carried.

Motion: Hines/2nd Crum
Vote: 5 – 0 – 2 – 0
For: Duke, Brown, Crum, Hines, White
Against: None
Absent: McIntyre, Cady
Abstain: None

ZONING ORDINANCE TEXT AMENDMENT – ZT-06-03

Terry Boykin, Emergent BioSolutions Inc. – (Requesting an amendment to the Zoning Ordinance to allow for a Guardhouse to be permitted as an accessory use in Commercial and Industrial Districts for the purpose of providing monitoring and control of access to the property.)

The Zoning Administrator, Mr. Larry Smith, presented the request. Mr. Soter highlighted Staff's issues and concerns, and then outlined certain recommended clarifying modifications to the text amendment.

Applicant

Attorney Bob Dalrymple appeared on behalf of the Applicant. He stated that his client, Emergent BioSolutions, Inc., works closely with National Defense and matters of Homeland Security, so the need for secured premises is evident. He requested approval of the application, along with the incorporation of Staff's changes.

Public Comment

Marie Keegin, of the Frederick County Office of Economic Development, stated that this is excellent addition to the business community, and that they are coming to this area with good jobs for the citizens. She highly recommended that the text amendment be approved.

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Decision

Mr. Brown then made a motion to recommend approval of the zoning text amendment and to also recommend that Items 1-4 on page 4 of the Staff Report be forwarded to the BOCC as recommended modifications, and agreed upon by the Applicant.

Motion: Brown/2nd Crum
Vote: 5 –0– 2 – 0
For: Duke, Brown, Crum, Hines, White
Against: None
Absent: McIntyre, Cady
Abstain: None

PRESENTATION ON NEW MARKET REGION TRAFFIC STUDY

The Frederick County Planning Commission requested the same briefing that was recently presented to the BoCC regarding the New Region Plan Traffic Study. Representatives from the Division of Public Works presented this information. That the purpose of the study, they said, was to forecast travel demand, evaluate roadway links and their performance, and ascertain improvements needed during peak hours.

The Afternoon meeting adjourned at 4:17 p.m.

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**Wednesday Evening, May 17, 2006
The Evening Session Began at 7:00 p.m.**

Commission Members Present: Alan Duke, Chairman
 Joseph Brown III, Secretary
 Robert White, Vice Chairman
 Fern Hines
 J. Denham Crum
 Joan McIntyre
 Michael Cady, BOCC Liaison

Commission Members Absent: (Michael Cady)

Planning Staff Present: Steve Kaii-Ziegler, Director of Planning
 Jim Gugel, Chief of Comprehensive Planning
 Carole Larsen, Principal Planner
 Shawna Lemonds, Principal Planner
 Denis Superczynski, Principal Planner
 Caryl Wenger, Recording Secretary

(Mr. Cady was initially absent.)

Mr. Duke opened the meeting and announced the first item.

APFO TEXT AMENDMENT REQUEST – AT-06-02 – (PUBLIC HEARING)

The Board of County Commissioners requested an amendment to the Adequate Public Facilities Ordinance to change the (APFO) regarding school adequacy and other related matters. Assistant County Attorney Kathy Mitchell related some of the background of the request, and explained how the change would apply.

Public Comment

Ms. Bonnie Bailey, speaking on behalf of the League of Women Voters, asked that the matter be continued to allow the Board of Education time to review and comment on the matter.

Ms. Sue Waterman, speaking as herself, also asked for a continuance.

Mr. Mark Friis asked for clarification on what would happen if lots were not recorded prior to expiration of the APFO approval. It was agreed that a builder who builds a particular school or school addition would be vested forever for that particular school level (elementary, middle or high school) for that development, as long as the intensity or density of the development did not increase.

Attorney Rand Weinberg stated that the proposed text amendment would open the APFO process to subjectivity. He suggested that any projects generating fewer than five students be exempt

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from the APFO test, just as any projects generating fewer than 50 peak-hour trips is exempt from the Roads test.

Mr. Brown commented that he felt this text amendment would cause the small and mid-sized builder would lose out because he would not have the capability of expanding a school, and because he would also lose the two-year CIP window. Mr. Weinberg agreed.

Rebuttal

Ms. Mitchell stated that, under the current ordinance, if there are any school projects scheduled within the first two years of the CIP, regardless of whether or not they are expected to open in an overcrowded state, the development automatically passes the school test at that level. Some of the Commissioners felt this was unfair, so they took that specific language out. However, she said, that particular factor is still taken into consideration, but it has become just one of the pluses and minuses factored into the determination.

She went on to address the issue of vesting. She stated that developer-funded schools will be treated the same as developer-funded roads, water, and sewer. The language for all is the same, she said, and the ordinance states “the APFO approval shall be vested for the capacity created by the improvements.”

Mr. White then moved for a continuance of the public hearing until June 14, 2006. He requested that the Board of Education bring back a comparison as to how this might have a specific impact on various sized builders, from the very small six-lot builder, the 100-lot builder, the 250-lot builder, the 500-lot builder and up, and further requested a comparison as to how the current APFO would impact those same levels of builders. In addition, he asked that the Board of Education, as well as any other interested parties, produce similar information and provide comments. Ms. McIntyre seconded the motion for discussion.

Mr. Duke asked that Staff be permitted to choose the sizes of builders for the project. Ms. Mitchell stated that there are a great number of variables that could make the comparison burdensome. Mr. Duke suggested choosing a few specific actual developments that were done the old way to streamline the project, and further suggested that the Board of Education select certain examples that would demonstrate the “old” vs. the “new,” at two or three levels of developmental size, within one feeder pattern.

Ms. Passierb suggested that using hypothetical schools might be better.

After some discussion, Mr. White moved for a continuance of the public hearing until June 14, 2006. He requested that the Board of Education, using hypothetical schools, bring back a comparison as to how this might have a specific impact on various sized builders, from the very small six-lot builder, to the 500-lot builder and up, and increments in between, (to be chosen by the Board of Education), and further requested a comparison as to how the current APFO would impact those same levels of builders. In addition, he asked that the Board of Education, as well as any other interested parties, produce similar information and provide comments. Ms. McIntyre seconded the motion. Motion carried.

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Motion: White/2nd McIntyre
Vote: 6 –0– 1 – 0
For: Duke, Brown, Crum, Hines, White, McIntyre
Against: None
Absent: Cady
Abstain: None

(Ms. Hines left the meeting at this point.)

WATER AND SEWER AMENDMENTS SPRING 2006 CYCLE

WS-06-01 – State Highway Administration (SHA), I-70 Rest Area

Text amendment for facility upgrade, new wastewater treatment system, new water storage tank and distribution system upgrade. Staff recommended a finding of consistency with the County's Comprehensive Plan.

Applicant

The Applicant was present but chose not to speak.

Public Comment

None.

Decision

Ms. McIntyre made a motion to recommend consistency with the Comprehensive Plan to the Board of County Commissioners. Mr. White seconded the motion. Motion carried.

Motion: McIntyre/2nd White
Vote: 5 –0– 2 – 0
For: Duke, Brown, Crum, McIntyre, White
Against: None
Absent: Hines, Cady
Abstain: None

WS-06-02 – Saber Ridge

Reclassification of 26.0925 acres, located in the Town of Myersville at the intersection of Easterday Road and Canada Hill Road, from W-4 Dev./S-4 Dev. to W-3 Dev./S-3 Dev. Staff recommended a finding of consistency with the County's Comprehensive Plan.

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Applicant

Attorney Krista McGowan appeared on behalf of the Applicant, and asked for a favorable recommendation to the Board of County Commissioners.

Public Comment

None.

Decision

Ms. McIntyre made a motion to recommend consistency with the Comprehensive Plan to the Board of County Commissioners. Mr. White seconded the motion. Motion carried.

Motion: McIntyre/2nd White
Vote: 5 –0– 2 – 0
For: Duke, Brown, Crum, McIntyre, White
Against: None
Absent: Hines, Cady
Abstain: None

WS-06-03 – Nexus Group (Zimmerman Property)

Reclassification of 6.54 acres, located on the south side of MD 180, within Advanced Technology Park boundary, from W-5 Dev./S-5 Dev. to W-4 Dev./S-4 Dev. Staff recommended a finding of consistency with the Frederick Region Plan.

Applicant

Attorney Krista McGowan appeared on behalf of the Applicant, and asked for a favorable recommendation to the Board of County Commissioners.

Public Comment

None.

Decision

Ms. McIntyre made a motion to recommend consistency with the Comprehensive Plan to the Board of County Commissioners. Mr. White seconded the motion. Motion carried.

Motion: McIntyre/2nd White
Vote: 5 –0– 2 – 0
For: Duke, Brown, Crum, McIntyre, White
Against: None
Absent: Hines, Cady
Abstain: None

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WS-06-04 – Parks & Recreation /Urbana

Reclassification of 99.535 acres, 3750 Urbana Pike, just north of the Village of Urbana, west side of MD 355, between Lew Wallace Street and Tabler Road, from W5 Dev./S-5 Dev. to W3 Dev./S-4 Dev.

Applicant

Mr. Paul Dial, of Parks and Recreation, recommended a finding of consistency with the Urbana Region Plan.

Public Comment

None.

Decision

Ms. McIntyre made a motion to recommend consistency with the Comprehensive Plan to the Board of County Commissioners. Mr. White seconded the motion. Motion carried.

Motion: McIntyre/2nd White
Vote: 5 –0– 2 – 0
For: Duke, Brown, Crum, McIntyre, White
Against: None
Absent: Hines, Cady
Abstain: None

WS-06-05 – HET Investment Properties, LLC

Reclassification of 0.38 acre, 3505 Urbana Pike – approximately 750 ft. west of the intersection of MD 355 (Urbana Pike) and Sugarloaf Parkway, from W-5 Dev./S-5 Dev. to W-4 Dev./S-4 Dev.

Applicant

Mr. Lee Miller, of GLM Engineering, along with the owner, Mr. Henry Tripp, asked that the Planning Commission recommend a finding of consistency with the Urbana Region Plan.

Public Comment

Ms. Sue Waterman, speaking on her own behalf, spoke in opposition to the proposal, and stated that the County needs to come up with a new classification for Town Center that includes text for uses that are only appropriate on well and septic. Ms. Bonnie Baker supported Ms. Waterman's comments.

Discussion

Mr. White stated that he thought this was being addressed. Ms. McIntyre stated that she was under the impression that a text amendment was under way for the revision of the "Village

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Center” designation. Mr. Gugel said that the Board has made comments on the matter, but “at this point, we don’t have any official direction or decision by the Board to do so.”

Rebuttal

Mr. Miller stated that a sewer connection has already been provided to the property, with a clean-out, etc., and asserted that this application is consistent with the Plan that is already being implemented.

Decision

Ms. McIntyre made a motion to recommend consistency with the Comprehensive Plan to the Board of County Commissioners. Mr. Brown seconded the motion. Motion carried.

Motion: McIntyre/2nd Brown
Vote: 4 –1– 2 – 0
For: Duke, Brown, Crum, McIntyre
Against: White
Absent: Hines, Cady
Abstain: None

(Mr. Cady joined the meeting at this point.)

Additional Motion

Mr. Brown then made a motion to have Staff provide the Planning Commission with a workshop schedule, to give direction on how to amend the Village Center designation, and to possibly create another zone that would help complement the sewer and water issues that keep cropping up with the Village Center issues. Ms. McIntyre seconded the motion.

Motion: Brown/2nd McIntyre
Vote: 5 –0– 1 – 1
For: Duke, Brown, Crum, McIntyre, White
Against: None
Absent: Hines
Abstain: Cady

REZONING REQUEST – R-06-01 – (PUBLIC HEARING)

URBANA TOWN CENTER EMPLOYMENT DISTRICT

Monocacy Land Company, LLC – Requesting the rezoning of 181.42 acres of land from Office/Research/Industrial (ORI) to Mixed Use Development (MXD). Located on the east side of I-270, southwest side of MD 355, and south of Park Mills Road in the Urbana Planning Region, the project proposes a mixed-use development including 1,950,000 s.f. of employment space, 50,000 s.f. of commercial space, and 600 dwelling units.

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Mr. Superczynski presented the Staff Report.

Mr. White expressed concerns with regard to Mixed Use development and design issues. Mr. Superczynski stated that he felt the street layout showed a high level of design thought. He further stated that he considered this to be an appropriate way to transition from the Villages of Urbana (Planned Unit Development) to the employment sector.

Mr. White also noted that a third of the area previously reserved for employment has now been earmarked for residential. He felt this undermined the general Urbana Plan and the Planning Commission's wishes for the area.

Mr. Superczynski stated that the Urbana Region Plan makes it clear that the APFO is the staging mechanism for the development of property in the employment corridor, and that the originally applied Floor to Area ratio would generate 1,400,000 square feet of employment space. The Applicant, he said, has come in with a figure closer to two million square feet of employment, which is more than in keeping with comprehensive planning policies.

Applicant

Attorney Krista McGowan appeared on behalf of the Applicant and gave a brief overview of the legal criteria for MXD approval.

Mr. Tom Natelli, of Natelli Communities, owner of Monocacy Land Company, presented some exhibits and aerials of the Master Plan for the project. With regard to the issue of lost employment ground, he stated that if the site's zoning remains "Office Research Industrial", more employment uses will be available than if the site is zoned "Mixed Use." He informed the Commission that, between these two pieces of property and the Town Center, his company will have approximately 4.5 million square feet of employment and retail uses under development in Urbana.

Mr. Natelli also discussed roads, and said that, to achieve full build-out of the employment sector in Urbana, another interchange will be needed.

Mr. Mark Friis stated that his company had done some further analysis on the northern entrance location opposite the Boxwood Lodge property. They now believe, he said, that that particular entrance should be shifted to the North because of sight-distance issues. Water and sewer usage, he said, will depend on the types of businesses that come into the site.

Mr. Friis stated that schools and APFO are issues that will be addressed at Phase Two if the application is successful. He went on to say that the high school has been expanded, there is a new middle school, and there will be a renovation of Urbana Elementary School. He further pointed out that between eighty-five and one hundred million dollars' worth of school improvements will be spent on districts adjacent to this area.

Public Comment

Eight members of the community commented on this project. Four were in favor, three were opposed, and one was neither for nor against. Marie Keegin, of the Office of Economic

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Development, stated that her office supports this project, and that they are elated with the MPDUs. Workforce housing is a big issue, she said, and MXD is exactly what is needed.

Rebuttal

Mr. Natelli re-emphasized that, with this plan, there will be 4.3 million square feet of office space, and 200,000 square feet of retail space under development by his company in the Urbana area. This amounts to almost doubling the office uses in the County, he said.

Regarding APFO, he said, his office recognizes the stresses this will create on the school system, and they are prepared to do their part. With the new school openings, even with full-day kindergarten, he said, Urbana Elementary will be at 78% capacity. Urbana Middle School will open at 65% capacity. Urbana is in fairly good shape, he said, but we will have to deal with adequate public facilities for schools when we reach that point.

Legal

Mr. Chomel then counseled the Planning Commission as to the legal guidelines that would apply to their decision.

Decision

Mr. White made a motion to recommend denial for the application based on the conceptual basis of the Urbana Plan for this industrial area, and the problems associated with increasing the residential component of the MXD. Mr. Brown seconded the motion.

Motion: White/2nd Brown
Vote: 3 – 3 – 1 – 0
For: Duke, White, Brown
Against: Crum, McIntyre, Cady
Absent: Hines
Abstain: None

Motion failed.

Ms. McIntyre then made a motion to recommend approval of the MXD zoning with the number of residential units being dropped to four (400) hundred, and with an equitable mix of commercial, employment, and residential being built simultaneously. Mr. Crum seconded the motion.

Motion: McIntyre/2nd Crum
Vote: 3 – 3 – 1 – 0
For: Crum, McIntyre, Cady
Against: Duke, White, Brown
Absent: Hines
Abstain: None

Motion again failed.

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It was decided that the matter would be forwarded to the Board of County Commissioners with no recommendation.

ANNOUNCEMENTS

Mr. Duke announced that the public hearing on the Walkersville Region Plan would be held on Wednesday, May 24, 2006, at the Walkersville Town Hall in Walkersville, Maryland.

The meeting adjourned at 11:04 p.m.

Respectfully submitted,

Caryl J. Wenger, Recording Secretary

Alan E. Duke, Chairman

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